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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of:	)	
	)	
Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996	)	CC Docket No. 98-146

To the Commission:

ICO SERVICES LIMITED REPLY TO THE WIRELESS INFORMATION NETWORKS FORUM'S COMMENTS

ICO Services Limited ("ICO")[1] submits a limited response in opposition to the comments submitted in the above-captioned Notice of Inquiry ("*NOI*")[2] to the Federal Communications Commission ("FCC" or "Commission") on September 14, 1998 by the Wireless Information Networks Forum ("WINForum").[3] WINForum's request to remove

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[1] ICO Services Limited, a company established under the laws of England and Wales, is a wholly owned subsidiary of ICO Global Communications (Holding) Limited, which is the ultimate parent of a wholly owned group of companies (referred to herein collectively as "ICO") that is developing a global MSS system.

[2] *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996*, CC Docket No. 98-146, FCC No. 98-187 (Aug. 7, 1998) ("*NOI*").

[3] Comments of the Wireless Information Networks Forum ("WINForum Comments"). ICO notes that WINForum proposes that the Commission allocate additional isochronous spectrum at 1.9 GHz for unlicensed personal communication service ("PCS") devices.

the Commission's restrictions on the use of the 5.15-5.25 GHz frequency band by unlicensed wireless device systems effectively is an out of time petition for reconsideration in an unrelated proceeding, and must be dismissed.[4]

ICO, a non-U.S. authorized global MSS system, is seeking FCC approval to access the U.S. market using the 2 GHz frequency bands for its service links and the 5/7 GHz frequency bands for its feeder links.[5] Specifically ICO's MSS system will use radio frequencies at 5150-5250 MHz for its Earth-to-space feeder link and at 6975-7075 MHz

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Although ICO does not comment on the specific requirements for isochronous spectrum for unlicensed PCS in the 1.9 GHz frequency band, ICO urges the Commission to take early action to make available the 2110-2150 MHz bands for advanced mobile service applications. ICO refers the Commission to its comments submitted in response to the IMT-2000 public notice. *See* FCC Public Notice, *Commission Staff Seek Comment on Spectrum Issues Related to Third Generation Wireless/IMT-2000*, Rpt. No. IN 98-48, (Aug. 26, 1998); Comments of ICO Services Limited, *Spectrum Issues Related to Third Generation Wireless/IMT-2000*, IN No. 98-48 (Sept. 30, 1998). ICO also notes that Motorola has submitted similar proposals supportive of ICO's proposals in response to the IMT-2000 notice. Comments of Motorola, Inc., *Spectrum Issues Related to Third Generation Wireless/IMT-2000*, IN No. 98-48 at 2 (Sept. 30, 1998).

[4] WINForum Comments at 8 and App. at 13. Petitions for further reconsideration of the FCC's Memorandum Opinion and Order ("*MO&O*") in ET Docket No. 96-102, RM-8648, RM-8653, which amended Part 15 of the FCC rules regarding Unlicensed National Information Infrastructure ("U-NII") devices in the 5 GHz frequency bands, were due September 14, 1998. *Amendment of the Commission's Rules to Provide for Operation of Unlicensed NII Devices in the 5 GHz Frequency Range*, 12 CR 575 (1998) ("*MO&O*"); *Unlicensed NII Devices in the 5 GHz Range*, 63 Fed. Reg. 40831 (1998) (final rule issued July 31, 1998); 47 C.F.R. § 1.429(d). Only one petition for reconsideration regarding U-NII devices was filed September 14, 1998 (by Clarity Wireless). Oppositions to Clarity's petition were due October 5, 1998. *Petitions for Reconsideration and Clarification of Action in Rulemaking Proceeding*, 63 Fed. Reg. 49913 (1998). WINForum neglected to cite the *U-NII Docket* in its comments.

[5] On September 26, 1997, ICO submitted a letter of intent to access 2 GHz MSS frequency bands at 1990-2025 MHz (Earth-to-space) and 2165-2200 MHz (space-to-Earth) in response to a Commission public notice opening a processing round for 2 GHz MSS applicants. On March 19, 1998, the FCC accepted for filing three letters of intent, including ICO's, and six applications. The final round of comments was completed on June 18, 1998. File No. 188-SAT-LOI-97.

for its space-to-Earth feeder links. Because of ICO's interest in avoiding unacceptable levels of interference to its 5 GHz satellite feeder links, ICO actively participated in the Commission's *U-NII Docket* proceeding, initiated in 1996 in partial response to WINForum's petition for rule making requesting that the FCC allocate 250 MHz within the 5 GHz frequency range for unlicensed devices.[6] In January 1997, the FCC adopted a report and order that set forth rules restricting U-NII device operation in the 5 GHz frequency range to avoid harmful interference to other services.[7]

In June 1998, the FCC issued a memorandum opinion and order ("*MO&O*") in the *U-NII Docket* in response to several petitions for reconsideration filed by WINForum and other parties representing the interests of unlicensed device operators.[8] In the *MO&O*, the Commission rejected, inter alia, WINForum and other U-NII device supporters' requests to permit a higher power limit for U-NII devices in the 5.15-5.25 GHz band.[9] The Commission reaffirmed its earlier decision that the 5.15-5.25 GHz band serve only for

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[6] *MO&O*; *Amendment of the Commission's Rules to Provide for Operation of Unlicensed NII Devices in the 5 GHz Frequency Range*, 12 FCC Rcd 1576, 1577 (1997) ("*Report and Order*"); *Amendment of the Commission's Rules to Provide for Operation of Unlicensed NII Devices in the 5 GHz Frequency Range*, 11 FCC Rcd 7205 (1996) ("*NPRM*") (collectively, "*U-NII Docket*").

[7] The FCC concluded that the maximum peak transmitter output power limit in the 5.15-5.25 GHz band should be limited to 50 mW with up to 6 dBi antenna gain permitted, equivalent to 200 mW EIRP. The FCC also decided to restrict U-NII devices to indoor operations. *Report & Order* at 1595-99.

[8] *MO&O* at 579.

[9] *Id.* at 579 ("We continue to believe that the 200 mW EIRP limit adopted in the R & O will enable short range wireless LAN applications in this band without causing interference to MSS operations.").

serve only for indoor short range networking devices and that U-NII devices with higher power must use other designated U-NII frequency bands.[10]

In this proceeding the Commission seeks comments regarding: (1) the existing broadband capabilities of communications networks; (2) the availability of these communications networks in a reasonable and timely fashion to all Americans; and

[10] In the *U-NII Docket*, the FCC indicated that it might reassess these power limits in the future if "the spectrum sharing relation between U-NII devices and MSS operations materially changes or if, in response to a possible proliferation of higher power high performance local area network ("HIPERLAN") devices in Europe, MSS systems are designed to more robust specifications and therefore could also withstand higher power U-NII signals." *MO&O* at 580. ICO notes that other Administrations, specifically, the European Conference of Postal and Telecommunications Administration ("CEPT"), are likely to model their 5150-5250 MHz band radio local area network ("RLAN") regulations (in Europe certain 5 GHz RLAN devices are termed HIPERLANS) on similar FCC requirements. In response to concerns raised by MSS interests regarding harmful interference caused by HIPERLAN emission to 5 GHz MSS feeder links, CEPT has studied intensively for more than two years the issue of MSS feeder link compatibility with RLAN / HIPERLAN devices. Certain European Telecommunication Standard Institute ("ETSI") groups also have contributed to these studies.

CEPT European Radiocommunication Committee ("ERC") Working Group Spectrum Engineering ("WG-SE") met September 28 - October 2 and provisionally adopted an ERC Report, which concludes that HIPERLAN Type 1 RLANS should be restricted to indoor only use in the 5 GHz band and should be limited to a peak EIRP per device of 200 mW. In ICO's view, CEPT ERC are very likely to adopt provisions regarding HIPERLAN Type 1 devices similar or identical to the U.S. FCC requirements on U-NII in the 5150-5250 MHz bands in terms of peak EIRP per device of 200 mW and indoor only restriction. There remains, however, an ongoing debate in Europe as to whether such restrictions represent a viable long-term solution to ensure compatibility between MSS feeder links and RLANs in the 5150-5250 MHz band. One view is that there is a potential long-term interference threat to future viable use of the bands by NGSO MSS feeder links and the above WG-SE conclusion provides a means for the introduction of HIPERLANS but not necessarily for a long-term solution.

(3) investment barriers that can deter competition.[11] The Commission specifically did not solicit ideas that are "shaped narrowly by the interests of any incumbents."[12]

In its comments in this proceeding, WINForum's request that the Commission remove interference restrictions for unlicensed devices operating in the 5.15-5.25 MHz band serves only the narrow interests of WINForum's constituents and is neither properly submitted in this proceeding, nor timely filed in response to the *U-NII* Docket proceeding.[13] Regardless of how WINForum styles its comments, its request is simply an out of time petition for reconsideration for an unrelated proceeding. Accordingly, WINForum's comments must be dismissed.

Respectfully submitted,

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October 8, 1998

[11] *NOI* at ¶¶ 8-10.

[12] *NOI* at ¶ 12.

[13] *See supra* note 4.

CERTIFICATE OF SERVICE

I, James Bucholz, hereby certify that copies of the foregoing REPLY IN OPPOSITION TO THE WIRELESS INFORMATION NETWORKS FORUM'S COMMENTS were served by hand-delivery this 8th day of October, 1998, upon the following:

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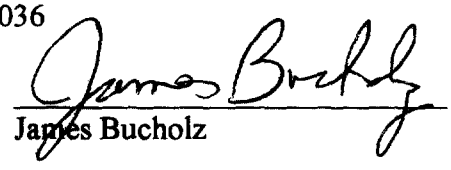

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